

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
45999-28002.00 (N02-01)

First named inventor: Benjamin D. PLESS

Application No: 09/977,052

Art Unit: 3762

Filed: October 12, 2001

Examiner: Carl H. Layno

Title: PATIENT-SPECIFIC TEMPLATE DEVELOPMENT FOR NEUROLOGICAL EVENT
DETECTION

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☐ Small entity – fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Other than small entity – fee \$ 1,500.00 (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):
- ☐ has been filed previously on _____ .
- ☐ is enclosed herewith.
- B. The issue fee and publication fee (if applicable) of \$ 1,700.00 .
- ☐ has been paid previously on _____ .
- ☒ is enclosed herewith.

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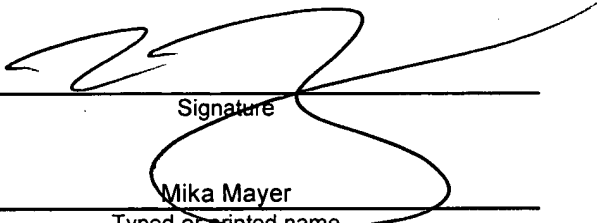
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: A statement in support of this petition is attached herewith.



 Signature

 Mika Mayer

 Typed or printed name

 May 11, 2006
 Date

 47,777
 Registration Number, if applicable

MORRISON & FOERSTER LLP
 755 Page Mill Road
 Palo Alto, California 94304-1018

 Address

 (650) 813-4298
 Telephone Number

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay - 2 pages

☒ Transmittal (1 page); Fee Transmittal + duplicate copy for fee processing (2 pages); Petition for Revival (2 pages); Part B- Fee(s) Transmittal + duplicate copy for fee processing (2 pages); Notification of Loss of

☐ Other: Entitlement to Small Entity Status (1 page); Return Receipt Postcard

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 534439293 US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 11, 2006

Signature: 

(Georgina Matos)



PATENT
Docket No. 45999-28002.00 (N02-01)

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EV 534439293 US in an envelope addressed to: MS Petition Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Dated: May 11, 2006

Signature: Georgina Matos (Georgina Matos)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Benjamin D. PLESS

Application No.: 09/977,052

Filing Date: October 12, 2001

Title: PATIENT-SPECIFIC TEMPLATE
DEVELOPMENT FOR
NEUROLOGICAL EVENT DETECTION

Examiner: Carl H. Layno

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**STATEMENT TO SUPPORT PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION**

MS Petition
P.O. Box 1450
Alexandria, VA 22313-1450

I, Benjamin D. Pless, state the following:

1. I am the Chief Operating Officer, Chief Technical Officer and a Board Member of NeuroPace, Inc., the company to which this application has been, or will be assigned. I am also a named inventor on the above-referenced application.
2. NeuroPace, Inc. employed an in-house patent attorney to manage our patent portfolio. His responsibilities included overseeing prosecution, or directly prosecuting, our patent matters. Our in-house patent attorney was responsible for directly prosecuting the above-referenced application.
3. It has just recently come to my attention that the above-referenced application was abandoned due to a failure to prosecute the application. This fact came to light after our in-house patent attorney departed, and our patent files were audited by outside patent counsel not associated with the prosecution of the above-referenced application.

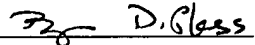
4. The failure to prosecute the above-referenced application was clearly unintentional. I, and NeuroPace, Inc., intended that all actions associated with the above-referenced application would be timely taken, and that all fees due would be timely paid.

5. Because I, and NeuroPace, Inc., in no way intended to abandon the above-referenced application, or otherwise allow it to lapse, I have asked our outside patent counsel to take all steps necessary to revive it.

6. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application, any patent issuing thereon, or any patent to which this verified statement is directed.

By: Benjamin D. Pless

Signature:  D. Pless

Date: 5-10-06